

MEETING MINUTES

MILPITAS PLANNING COMMISSION
Milpitas City Hall, Council Chambers
455 E. Calaveras Blvd., Milpitas, CA

Wednesday, September 27, 2017

I. PLEDGE OF ALLEGIANCE

Chair Mandal called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL/ SEATING OF ALTERNATE

Present: Chair Mandal, Vice Chair Madnawat, Commissioners Sandhu, Ciardella, Morris, Maglalang, Chua

Absent: Mohsin (excused)
Alternate Member Chua was seated for voting.

Staff: Bradley Misner, Katy Wisinski, Lillian Hua, Michael Fossati

III. PUBLIC FORUM

Chair Mandal invited members of the audience to address the Commission and there were no speakers.

IV. APPROVAL OF MEETING MINUTES

Chair Mandal called for approval of the August 23, 2017 meeting minutes of the Planning Commission.

Motion to approve Planning Commission meeting minutes.

Motion/Second: Commissioner Ciardella/Vice Chair Madnawat

AYES: 7

NOES: 0

ABSTAIN: 0

V. ANNOUNCEMENTS

No announcements

VI. CONFLICT OF INTEREST

Deputy City Attorney Katy Wisinski asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

There were no reported conflicts.

VII. APPROVAL OF AGENDA

Chair Mandal asked if staff or Commissioners had changes to the agenda and there were none.

Motion to approve the September 27, 2017 agenda as submitted.

Motion/Second: Commissioner Sandhu/Commissioner Morris

AYES: 7

**VIII. CONSENT
CALENDAR
NO ITEMS**

IX. PUBLIC HEARING

- IX-1 STEPPING STONE DAYCARE ADDITION AND PERMIT AMENDMENT – 1362 S. Main Street – P-SD17-0004 & P-UA17-0005:** A request for a Site Development Permit and Conditional Use Permit Amendment to add 1,817 square feet to an existing building to construct two new classrooms, restripe the existing parking lot, and increase the capacity of an existing child care facility from 40 students to 88 students.

Project Planner Lillian Hua showed a presentation and reviewed the request.

Commissioner Ciardella asked about Attachment C, a memorandum from the Building and Safety Department stating they have not yet approved the project. Ms. Hua said the department has looked at the project as part of the preliminary review but the applicant has not submitted building permits yet. The memorandum is part of the initial review by Building and Fire, and states it is not a formal approval because full building and permit plans need to be submitted to comply with the California Building Code.

Planning Director Brad Misner said this is very standard in the process. When an applicant submits a planning application it is taken through a development review committee consisting of different departments in an effort to provide comments as early on as possible in the process. Tonight is for the entitlements but staff is providing information on what conditions the applicant will need to comply with when they go through the plan check process to get their building permit.

Commissioner Ciardella said he had not seen this before where a project is approved before the Building Department has had a chance to review it. Ms. Wisinski said staff is showing more of the internal work than the commission usually sees. Whenever an application comes in to the city, staff will share it with other departments to make sure they are each checking for areas within their own jurisdictions. The resolution shows that all departments have included the conditions of approval they feel are necessary. These are additional notes to let everyone know what will be required at the plan check stage, but not usually provided as part of the commission packet.

Commissioner Ciardella said this is unusual and makes him nervous about approving the project. Mr. Misner said Condition of Approval #17 states that there must be compliance with the requirements of the Building code. The memorandum shows the internal working of the group but nothing that is germane to the application. Ms. Wisinski said staff is just showing their work and it does not concern her at all.

Commissioner Morris asked if there is a need for additional parking spaces to be created. Ms. Hua said the applicant is restriping the parking lot to add one additional space. Based on their parking analysis they are required to have 18 spaces but because the property is in the TASP and within the TOD overlay they are allowed a 20% reduction in the total number of required parking spaces, bringing the required

number of parking spaces to 14.

Commissioner Morris said she has never approved a project before the Fire or Police Departments have, especially when children are involved, and she does not want to approve a project the Fire Department has not approved.

Mr. Misner said the process before the commission tonight is whether or not to authorize the conditional use permit (CUP) and site development permit, which are the planning entitlements they need through the zoning ordinance. For the construction of the building and all of the safety issues and Fire and Building requirements, the applicant will need to formulate more specific plans which all city departments review to ensure they meet Building and Fire codes and are consistent with what the Planning Commission approves. With the memorandums, the applicant is now well aware of all the requirements that need to be met for construction of the building. One would never see a scenario where the building set of plans were approved prior to the CUP or site development permits, and tonight's approval is just one step in the process.

Commissioner Morris asked if the item will return to the commission and Mr. Misner said it will not. If the commission chooses to approve this item, it is saying that the building, as it is proposed, is meeting the parking requirements, setbacks, zoning requirements etc. and if it meets those then the applicant will invest further money to produce technical drawings to submit to the Building Department for their approvals.

Vice Chair Madnawat said what may be confusing the commission is the statement in the memorandum that this is not an approval; however, the departments do not want to give the impression that the project has been approved. Planning comes first and when Building plans are submitted the other departments will give their approval. These memorandums go to the applicant to let them know preliminary findings so they know what to expect, and make it clear they still have to go through the entire process.

Vice Chair Madnawat asked what the Milpitas Child Care Master Plan is as he has never heard of it. Ms. Hua said the plan is dated April 2, 2002, and details how the city should encourage and promote child care facilities within the city. The long range goal is for all families to have access to affordable, safe, quality child care and this project, by proposing to expand, will be able to provide services to more families and children within the city.

Commissioner Maglalang expects there will be a lot of traffic during peak hours of drop off and pick up, and said this location is across from The Pines and residents have complained about the invasion of their parking. Ms. Hua spoke of the zoning ordinance and parking requirements based on square footage and the number of children, and said the applicant is not required to provide additional loading and unloading spaces.

Commissioner Ciardella said the memorandum concerns him and asked if this is typical of every project or just this one. Mr. Misner said this happens for every project. He said the Building Department would not give approval prior to planning entitlements, and instead of waiting to get the planning entitlements and then wait for the applicant to submit building plans, the memorandumss state there is no approval yet but makes the applicant aware of requirements in advance. Staff is showing more of the internal process but this does happen for every project.

Ms. Wisinski said this issue does not bear on the commission's decision because they are items outside of the commission's review authority and the commission is just concerned with the appropriateness of the land use. The issues are for the Building and Fire Departments to worry about and Building will always retain the authority to ensure that all of the building codes are met. These memorandums exist for every single project but the commission does not usually see them on the dais.

Commissioner Morris said traditionally the commission sees projects completely done and approved by other departments before they approve. This process puts a lot of the onus on the Planning Department so they will decide what the project looks like and takes the voice of the community away as the commissioners are here to act as a voice for them. She feels the process is being circumvented and the Planning Department gets to decide the final outcome of this project.

Mr. Misner said that in no way is the Planning Department circumventing any of the codes or regulations, which will have to be met before the applicant can get a building permit. Conditions 16 and 17 state that the project will have to comply with Fire and Building Department requirements and the memorandums state what the requirements will be in an effort to let the applicant know early in advance.

Commissioner Chua said the memorandums are checklists for potential requirements and each department reviews projects extensively, adding that the commission is here tonight to approve or reject the site development and conditional use permits.

Commissioner Morris said every time she has asked if a project has been reviewed by the Fire Department she has been told that it has, and in this case the process is different. She said the Planning Commission is usually the last reviewer but in this case they are seeing the project before other departments.

Ms. Wisinski said this application, just like every other application before the commission, has been given to the Fire and Building Departments and that is why they put together their memorandums. Both of those departments recognize that the Planning Commission is the decision maker and both of their memorandums say it is not an approval, but let the applicant know what will be expected if there is approval by the Planning Commission. It is literally the same exact process as for every other application. Staff provided information that is not usually provided, but there has been no change in the process.

Commissioner Maglalang said there is a lack of trees on the landscaping plan and asked if additional trees could be requested.

Ms. Wisinski said sheet A1.1 of the project plans show street trees along the project frontage. The commission cannot require that this particular applicant be made to plant more or additional trees than would be required by the TASP but can require the applicant to conform to whatever landscape requirements there may be in the TASP. If there are no conditions that would specifically require them to increase the landscaping then there is nothing about this particular project that would have impacts above and beyond any others that would warrant an ad hoc imposition of additional requirements.

Mr. Misner said sheet A2.1 shows three landscape areas on the property and it may be possible to explore whether or not additional landscaping can be added to those areas.

Applicant Murari Kumar was present to answer questions.

Vice Chair Madnawat is concerned with parking and a high number of children being picked up at the same time causing cars to back up, and recommended the applicant have staff available to help move cars along.

Commissioner Sandhu recommended a small bus or van to pick up children from nearby homes. Mr. Kumar said he is not planning to operate a bus but, in an effort to address parking concerns, will provide VTA passes for staff and will have staggered pick up and drop off times. He said nine children walk to the daycare from their homes and four arrive via VTA.

Commissioner Maglalang requested revised landscaping plans with trees in the front of the property. Mr. Kumar said there are currently three landscape areas and 15-20 trees are planted on the property, although some of them have died but will be replanted. He said the landscaping requirements were fulfilled when the daycare was approved.

Chair Mandal opened the public hearing and there were no speakers.

Motion to close the public hearing.

Motion/Second: Commissioner Maglalang/Commissioner Chua

AYES: 7

NOES: 0

Motion to Adopt Resolution No. 17-025 approving Site Development Permit No. P-SD17-0004 and Conditional Use Permit Amendment No. P-UA17-0005, subject to the attached Conditions of Approval.

Motion/Second: Commissioner Chua/Vice Chair Madnawat

AYES: 4

NOES: 3 Sandhu, Ciardella, Morris

IX-2

SENIOR LIFESTYLES PARCEL MAP – 1504-1620 S. Main Street – P-PM17-0002: A request for a Parcel Map for the construction of Phase 1 of a senior assisted living facility of 199 rental units (including 10 very low-income units) and associated site improvements on 5.95 acres lot.

Project Planner Michael Fossati showed a presentation and reviewed the request.

Vice Chair Madnawat said residents have complained about construction workers parking in The Pines. He believes there should be an added condition that, during construction, parking will be provided for workers and they will not park in the neighborhoods.

Mr. Fossati said that during the building permit phase the applicant provides a construction management plan which addresses parking and street closures.

Commissioner Maglalang had questions regarding the ratio of very low income units on each parcel and Mr. Fossati said he would refer to the applicant as the agreements

were created in 2008. He said for new developments affordable housing is required but previously there was no policy mandating that requirement.

Commissioner Maglalang questioned if there are residents in Silicon Valley that qualify for very low income units. Mr. Misner said he appreciates the questions and understands there is a need to have a conversation with the commission on affordable housing, but the development agreement was done a number of years ago and this particular case is about the parcel map and the subdivision of land.

Commissioner Maglalang asked if the number of affordable housing units can be increased. Ms. Wisinski said these are useful questions and they will be talked about more abstractly as the commission moves forward, but for this particular project the density numbers have already been negotiated and approved by the City. Tonight is to determine whether the parcel map is in substantial conformance with the tentative map that the applicant brought earlier, and at this point the commission cannot weigh in on density or any other policy questions.

Applicant Joe Callahan of South Main Senior Lifestyles, LLC was present.

Vice Chair Madnawat asked for the project timeline and Mr. Callahan said they have submitted for a building permit, need to record the map, and plan to start the project in November.

Commissioner Maglalang asked what will happen with the very low income units if there are no residents for them and Mr. Callahan said demand is not an issue.

Terry Freeman approached the dais and said there is a large demand for affordable housing units.

Commissioner Chua asked how residents are chosen. Ms. Freeman said at their Livermore location they accepted applications on a first come first served basis, but will probably propose a lottery system for Milpitas.

Chair Mandal opened the public hearing. Isaac Hughes said if tax dollars are being used for affordable housing then the residents should be US citizens. He spoke of delays of fire trucks on Main Street due to planters and said the ingress and egress should not have such bomb proof design that single lanes are created, making it difficult for fire trucks to get around cars. He believes the non-ambulatory patients should be located on the lowest floors.

Motion to close the public hearing.

Motion/Second: Commissioner Chua/Commissioner Sandhu

AYES: 7

NOES: 0

Ms. Wisinski wished to add the following recital for the commission's consideration: Per Milpitas Municipal Code Section 11-1-6.02-3 the Acting City Engineer has reviewed the parcel map and has certified that it is in conformance with vesting tentative map TP14-0001 previously approved by the city council.

Motion to Adopt Resolution No. 17-022 approving Parcel Map P-PM17-0002.

Motion/Second: Commissioner Chua/Commissioner Ciardella

AYES: 7

NOES: 0

X. NEW BUSINESS

NO ITEMS

XI. ADJOURNMENT

The meeting was adjourned at 8:55 PM.

Motion to adjourn to the next meeting.

Motion/Second: Commissioner Sandhu/Commissioner Morris

AYES: 7

NOES: 0

*Meeting Minutes submitted by
Planning Commission Secretary Elia Escobar*